



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,190	09/16/2003	Fuyong Zhao	50325-0803	5579

29989 7590 06/01/2007
HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

EXAMINER

SINKANTARAKORN, PAWARIS

ART UNIT	PAPER NUMBER
----------	--------------

2616

MAIL DATE	DELIVERY MODE
-----------	---------------

06/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,190

Applicant(s)

ZHAO, FUYONG

Examiner

Pao Sinkantarakorn

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-21 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. Claims 1-9 are objected to because of the following informalities:

Regarding claim 1 line 2, the recitation "the computer-implemented steps" should be rewritten as ---computer-implemented steps--- since computer-implemented steps have never been mentioned before. The same is true for claims 5 and 6 line 2 and claim 7 line 1.

Claims 2-4, 8, and 9 are then objected because they depend on the objected claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-13 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter.

Regarding claims 10-13, the claim recites "a computer-readable medium carrying one or more sequences of instructions...which instructions, when executed by one or more processors...", which is non-statutory descriptive material since it is not functional it cannot carry out the claimed invention, therefore it is not statutory subject matter.

NOTE: To overcome this rejection, it is suggested that the applicant rewrite claims 10-13 in terms of "a computer readable medium, stored with, embodied with, or encoded with computer executable instructions."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5 and 7-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Cain et al. (US 2003/0202468).

Regarding claims 1, 10, 14, and 18, Cain et al. disclose a method of discovering a network path that satisfies a quality of service (QOS) requirement, the method comprising computer-implemented steps of:

receiving, at a first router, a first data packet that indicates a destination and the QOS requirement (see paragraph 43, the source node transmits a QOS route request to discover paths to the destination node based upon a QOS parameter);

updating the first data packet to indicate an identity of the first router (see paragraph 44, the intermediate node updates the QOS link metric and temporarily reserves node resources for that QOS route request);

determining whether a least-delay path from the first router to the destination satisfies the QOS requirement (see paragraphs 44 and 70-72, each intermediate node determines whether the node can support the requested QOS parameter of the QOS route request; the source node may receive multiple QOS route requests for paths to the destination node that can meet the required QOS; it will rank order these and send out a message indicating its selection of a path on the highest ranked path);

determining whether the first data packet has visited any router in the least-delay path other than the first router (see paragraphs 44, 45, 69, and 70, each intermediate node is capable of determining whether the data packet has visited any router in the path by examining the QOS flow identifier and the QOS metric; a flow ID is assigned to the QOS route request to uniquely identify the flow to any node in the network);

if the least-delay path satisfies the QOS requirement and the first data packet has not visited any router in the least-delay path other than the first router, then sending the first data packet to a second router in the least-delay path (see

Art Unit: 2616

paragraphs 44, 45, 69, and 70, once the intermediate node 3 receives the QOS route request from the source node 1, it determines whether the node 3 can support the requested QOS parameter and whether the packet has visited any router in the path other than the intermediate node 3, then it forwards the packet to intermediate node 5; the intermediate node 5 does the same and forwards the packet to the destination node 4, 1-3-5-4); and

receiving, at the first router, a second data packet that indicates a path taken the first data packet to the destination (see paragraph 45, the source node receives a reply QOS route request and generates QOS route metrics based upon updated QOS link metrics in reply QOS route request from the destination node);

regarding claims 2, 11, 15, and 19, the first router has links, and further comprising:

if the least-delay path does not satisfy the QOS requirement (see paragraphs 44 and 45, if an intermediate node cannot support the requested QOS parameter, it will deny the request while other intermediate nodes are processing the determining step), then performing steps comprising:

determining one or more of the first router's links that satisfy the QOS requirement (see paragraph 44 and 45, each intermediate node 2, 3, and 5 determine whether the node can support the requested QOS parameter); and

sending a copy of the first data packet through the one or more of the first router's link that satisfy the QOS requirement (see paragraphs 44

Art Unit: 2616

and 45, if the intermediate nodes can support the request QOS parameter, the nodes forward the packet to other intermediate nodes that are connected to it);

regarding claims 3, 12, 16, and 20, the first router has links, and further comprising:

if the first data packet has visited a router in the least-delay path other than the first router, then performing steps comprising:

determining one or more of the first router's links that satisfy the QOS requirement(see paragraph 44 and 45, each intermediate node 2, 3, and 5 determine whether the node can support the requested QOS parameter); and

sending a copy of the first data packet through the one or more of the first router's link that satisfy the QOS requirement (see paragraphs 44 and 45, if the intermediate nodes can support the request QOS parameter, the nodes forward the packet to other intermediate nodes that are connected to it);

regarding claims 4, 13, 17, and 21, in response to receiving the first data packet, updating a table to indicate that the first router has received a copy of the first data packet (see paragraph 44, updating the QOS link metric).

Regarding claim 5, Cain et al. disclose a method of discovering a network path that satisfies a quality of service (QOS) requirement, the method comprising computer-implemented steps of:

receiving, at a first router, a data packet that indicates a destination and the QOS requirement (see paragraph 43, the source node transmits a QOS route request to discover paths to the destination node based upon a QOS parameter);

determining whether the data packet indicates that a path to the destination has been found (see paragraphs 43-45, the reply QOS route request indicates that a path to the destination has been found);

determining whether a least-delay path from the first router to the destination satisfies the QOS requirement (see paragraphs 44 and 70-72, each intermediate node determines whether the node can support the requested QOS parameter of the QOS route request; the source node may receive multiple QOS route requests for paths to the destination node that can meet the required QOS; it will rank order these and send out a message indicating its selection of a path on the highest ranked path);

if the data packet indicates that a path to the destination has been found, and if the least-delay path from the first router to the destination does not satisfy the QOS requirement, then eliminating the data packet (see paragraph 44, if the node cannot support the QOS parameter, then the request is denied); and

if the data packet does not indicate that a path to the destination has been found, and if the least-delay path from the first router to the destination satisfies the QOS requirement (see paragraphs 67-73, if a link fails, a route error packet is returned to the source node; and then the route discovery process is initiated again), then performing steps comprising:

updating the data packet to indicate that a path to the destination has been found (see paragraphs 68-72, the discovery process includes broadcasting a QOS route request to all the nodes and receiving, in return, a reply QOS route request, which indicates that a route has been discovered); and sending the data packet through the link that leads to the second router on the least-delay path (see paragraphs 43-45 and 68-72, once the source node selects a path based on the highest ranked path, data packets then can be routed through the path via intermediate nodes; for example, source node – intermediate node 3 – intermediate node 4 – destination node).

Regarding claim 7, Cain et al. disclose a method of discovering a least-cost network path, the method comprising computer-implemented steps of:

receiving, at a first router, a first data packet that indicates a destination (see paragraph 43, the source node transmits a QOS route request to discover paths to the destination node based upon a QOS parameter);

updating the first data packet to indicate an identity of the first router (see paragraph 44, the intermediate node updates the QOS link metric and temporarily reserves node resources for that QOS route request);

determining whether the first data packet has visited any router in a least-cost path from the first router to the destination, not including the first router (see paragraphs 44, 45, 69, and 70, each intermediate node is capable of determining whether the data packet has visited any router in the path by examining the QOS flow identifier and the QOS metric; a flow ID is assigned to the QOS route request to uniquely identify the flow to any node in the network);

Art Unit: 2616

if the first data packet has not visited any router in the least-cost path other than the first router, then sending the first data packet to a second router in the least-cost path (see paragraphs 44, 45, 69, and 70, once the intermediate node 3 receives the QOS route request from the source node 1, it determines whether the intermediate node 3 can support the requested QOS parameter and whether the packet has visited any router in the path other than the intermediate node 3, wherein the QOS link metric indicates whether the packet has visited any other router by determining whether the QOS link metric has been updated, then it forwards the packet to other intermediate nodes 2 and 5; the intermediate nodes 2 and 5 do the same and forward the packet to the destination node 4; QOS parameter is preferably based upon available bandwidth, error rate, delay, etc.; therefore, 1-3-5-4 route can be least-cost path);

if the first data packet has visited a router in the least-cost path other than the first router, then sending the first data packet to a third router in a first least-delay path from the first router to the destination (see paragraphs 44, 45, 69, and 70, once the intermediate node 3 receives the QOS route request from the source node 1, it determines whether the intermediate node 3 can support the requested QOS parameter and whether the packet has visited any router in the path other than the intermediate node 3, wherein the QOS link metric indicates whether the packet has visited any other router by determining whether the QOS link metric has been updated, then it forwards the packet to other intermediate nodes 2 and 5; the intermediate nodes 2 and 5 do the same and forward the packet to the destination node 4; QOS parameter is preferably based upon

Art Unit: 2616

available bandwidth, error rate, and/or delay, etc.; therefore, 1-3-5-4 route can be least-cost path); and

receiving, at the first router, a second data packet that indicates a path taken by the first data packet to the destination (see paragraphs 44, 45, 69, and 70, once the intermediate node 3 receives the QOS route request from the source node 1, it determines whether the intermediate node 3 can support the requested QOS parameter and whether the packet has visited any router in the path other than the intermediate node 3, wherein the QOS link metric indicates whether the packet has visited any other router by determining whether the QOS link metric has been updated, then it forwards the packet to other intermediate nodes 2 and 5; the intermediate nodes 2 and 5 do the same and forward the packet to the destination node 4; QOS parameter is preferably based upon available bandwidth, error rate, and/or delay, etc.; therefore, 1-2-4 route can be least-delay path);

wherein the least-cost path differs from the first least-delay path (see Fig 1 and paragraph 45, 1-2-4 and 1-3-5-4 are two different paths);

regarding claim 8, further comprising:

receiving, at the second router, the first data packet (see paragraphs 67-70, a source node broadcasts the QOS route request to the destination node);

determining whether a second least-delay path from the second router to the destination satisfies a delay requirement indicated by the first data packet (see paragraphs 68, the source node broadcasts, which means all the paths are

Art Unit: 2616

being determined whether the paths satisfy the delay requirement requested by the source node);

if the second least-delay path does not satisfy the delay requirement, then performing steps comprising:

updating the first data packet to indicate a wrong way (see paragraph 73, the updating is done by discarding the QOS route request and generate a route error to send back to the source node to notify that there is a link failure along the path); and

sending the first data packet to the first router (see paragraphs 67 and 73, if the requested QOS requirement cannot be satisfied, a route error packet is generated and return to the source node);

regarding claim 9, further comprising:

receiving at the first router, the first data packet (see paragraphs 67 and 73, the route error packet is returned to the source node via the reverse path through intermediate nodes);

determining whether the first data packet indicates a wrong way (see paragraph 73, the route error packet indicates a wrong way);

if the first data packet indicates a wrong way, then performing the steps comprising:

updating the first data packet to not indicate a wrong way (see paragraphs 67, 68, and 73, the source node broadcast a new QOS route request packet to the destination node, which does not indicate a wrong way); and

sending the first data packet to the third router (see paragraphs 67, 68, and 73, the source node broadcasts a new QOS route request packet to all the intermediate nodes connected to the source node including the intermediate node 3).

Allowable Subject Matter

6. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Billhartz et al. (US 2003/0204616) and Zhang et al. (US 2005/0128944) are cited to show system/method considered pertinent to the claimed invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pao Sinkantarakorn whose telephone number is 571-270-1424. The examiner can normally be reached on Monday-Thursday 9:00am-3:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax

Art Unit: 2616

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PS


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER